

Exhibit LL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

HAPAG-LLOYD AKTIENGESELLSCHAFT,

Plaintiff,

-against-

Case No.
14-cv-9949 (VEC)

U.S. OIL TRADING LLC, O.W. BUNKER
GERMANY GMBH, O.W. BUNKER & TRADING
A/S, ING BANK N.V., CREDIT AGRICOLE
S.A.,

Defendants.

-----x

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

HAPAG-LLOYD AKTIENGESELLSCHAFT,

Plaintiff,

-against-

Case No.
14-cv-10027 (VEC)

O'ROURKE MARINE SERVICES, L.P.,
L.L.P., O.W. BUNKER GERMANY GMBH,
O.W. BUNKER USA, INC., ING BANK N.V.,

Defendants.

-----x

January 19, 2016
10:05 a.m.

DEPOSITION of RULE 30(b)(6) WITNESS

NORBERT KOCK

Page 2

1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2

-----X

3

U.S. OIL TRADING LLC,

4

Plaintiff,

Case No.

-against- 15-cv-6718 (VEC)

5

M/V VIENNA EXPRESS, her tackle,

6

boilers, apparel, furniture,

engines, appurtenances, etc.,

7

in rem: M/V SOFIA EXPRESS, her

tackle, boilers, apparel, furniture,

8

engines, appurtenances, etc., in rem,

Defendants.

9

-----X

10

HAPAG-LLOYD AKTIENGESELLSCHAFT, as

Claimant to the M/V VIENNA EXPRESS,

11

Counter-Claimant and

Third-Party Plaintiff,

12

- against -

13

U.S. OIL TRADING LLC,

14

Counter-Defendant and

15

O.W. BUNKER GERMANY GMBH, O.W. BUNKER

16

& TRADING A/S, ING BANK N.V., and CREDIT

AGRICOLE CORPORATE AND INVESTMENT BANK

17

a division or arm of CREDIT AGRICOLE S.A.,

18

Third-Party Defendant.

19

-----X

20

Deposition of Rule 30(b)(6) Witness,

21

NORBERT KOCK, pursuant to Notice, held at the

22

offices of Freehill Hogan & Mahar LLP, 80 Pine

23

Street, New York, New York, before Roberta

24

Caiola, a Shorthand Reporter and Notary Public

25

within and for the State of New York.

Page 4

1

A P P E A R A N C E S:

2

Attorneys for U.S. Oil Trading LLC:

3

CLYDE & CO. US LLP

4

405 Lexington Avenue

5

New York, New York 10174

6

BY: CASEY BURLAGE, ESQ.

7

AND: JOHN KEOUGH, ESQ.

8

9

Attorneys for O.W. Bunker Germany GMBH:

10

HILL RIVKINS LLP

11

45 Broadway, Suite 1500

12

New York, New York 10006-3739

13

BY: JUSTIN M. HEILIG, ESQ.

14

15

Attorneys for O'Rourke Marine Services L.P.:

16

SIMMS SHOWERS LLP

17

201 International Circle, Suite 250

18

Hunt Valley, Maryland 21030

19

BY: CASEY L. BRYANT, ESQ.

20

(Appearing Telephonically)

21

22

ALSO PRESENT:

23

Andrew Rona, The Interpreter

24

25

Page 3

1

A P P E A R A N C E S:

2

Attorneys for Defendant ING Bank N.V.,

3

as Security Agent:

4

SEWARD & KISSEL LLP

5

One Battery Park Plaza

6

New York, New York 10004

7

BY: BRIAN P. MALONEY, ESQ.

8

AND: MICHAEL W. BROZ, ESQ.

9

10

11

Attorneys for Hapag-Lloyd Aktiengesellschaft:

12

FREEHILL HOGAN & MAHAR LLP

13

80 Pine Street

14

New York, New York 10005

15

BY: MICHAEL FERNANDEZ, ESQ.

16

AND: MICHAEL DEHART, ESQ.

17

18

19

20

21

22

23

24

25

Page 5

1

INDEX

2

Witness Examination By Page

3

Norbert Kock Mr. Maloney 12

4

Mr. Heilig 120

5

Mr. Keough 165

6

Ms. Bryant 216

7

Mr. Maloney 220

8

9

E X H I B I T S

10

Kock Description Page

11

Exhibit 1 Notice of Rule 30(b)(6) 12

12

Deposition

13

Exhibit 2 Notice of Rule 30(b)(6) 12

14

Deposition

15

Exhibit 3 Document Bates stamped USOT 24

16

000101 through USOT 107

17

Exhibit 4 Document Bates stamped 41

18

HPL-USOT page 131

19

Exhibit 5 Document Bates stamped 43

20

HPL-USOT 135 and HPL-USOT 136

21

Exhibit 6 Document Bates stamped 49

22

HPL-USOT 137 and HPL-USOT 138

23

Exhibit 7 Document Bates stamped 50

24

HPL-USOT 139 and HPL-USOT 140

25

2 (Pages 2 to 5)

<p style="text-align: right;">Page 70</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 attachment refer to?</p> <p>3 A. This is a payment advice that</p> <p>4 Hapag-Lloyd is going to pay the different</p> <p>5 amounts for the different stamps to O.W. Bunker</p> <p>6 Germany.</p> <p>7 Q. Payment advice, is that what</p> <p>8 Zahlungsbeleg refers to?</p> <p>9 A. Yes.</p> <p>10 MR. FERNANDEZ: Just note my</p> <p>11 objection. You marked Exhibit 14 which is</p> <p>12 numbered 170 through 173, I think that may have</p> <p>13 been marked in error. You have 170 and 171 seem</p> <p>14 to be standalone documents. Then 172 and 173 I</p> <p>15 don't believe are affixed to the bunker delivery</p> <p>16 note. You can certainly ask the witness that,</p> <p>17 but please note my objection to the way this</p> <p>18 exhibit has been marked.</p> <p>19 MR. MALONEY: So noted. I agree</p> <p>20 with your characterization, Mr. Fernandez.</p> <p>21 Q. So is it the case, Mr. Kock, that</p> <p>22 the bunker delivery note at page 171 is the</p> <p>23 attachment to page 170?</p> <p>24 A. Yes.</p> <p>25 Q. And then the next pages 172 and 173</p>	<p style="text-align: right;">Page 72</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 dispute about the quantity or the quality of the</p> <p>3 fuel listed on the bunker delivery note, who</p> <p>4 would Hapag-Lloyd deal with as to that dispute?</p> <p>5 A. The responsible purchaser.</p> <p>6 Q. So is that O.W. Bunker Germany?</p> <p>7 MR. FERNANDEZ: Could you reframe</p> <p>8 the question please.</p> <p>9 MR. MALONEY: Sure.</p> <p>10 Q. So once the bunker purchasing</p> <p>11 department receives a bunker delivery note, they</p> <p>12 check the quantity and quality against the</p> <p>13 original purchase order placed with the seller,</p> <p>14 is that fair?</p> <p>15 A. Yes.</p> <p>16 Q. And if there were any disputes</p> <p>17 would Hapag-Lloyd go to its seller to resolve</p> <p>18 those?</p> <p>19 A. Yes.</p> <p>20 Q. In this case that would be O.W.</p> <p>21 Bunker Germany?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know if there were any such</p> <p>24 disputes about this particular transaction?</p> <p>25 A. I can't remember. I don't think</p>
<p style="text-align: right;">Page 71</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 refer to a separate document?</p> <p>3 A. Yes. So this payment advice is</p> <p>4 normally not going through our department. It's</p> <p>5 done by our accounting department, and our</p> <p>6 accounting department is sending it out to the</p> <p>7 different vendors they are paying.</p> <p>8 MR. FERNANDEZ: Are we able to</p> <p>9 break these apart so the record is clear and</p> <p>10 mark the two pages 14?</p> <p>11 MR. MALONEY: I'm happy to mark</p> <p>12 pages 172 and 173 as Exhibit 15.</p> <p>13 MR. FERNANDEZ: Thank you.</p> <p>14 (Kock Exhibit 15, Document Bates</p> <p>15 stamped HPL-USOT 172 and HPL-USOT 173, marked</p> <p>16 for identification.)</p> <p>17 Q. Just to clear up the record. How</p> <p>18 does the bunker purchasing department at</p> <p>19 Hapag-Lloyd use the bunker delivery note that</p> <p>20 was communicated to it here in Exhibit 14?</p> <p>21 A. The quantity stated on the bunker</p> <p>22 delivery note, the metric tons, will be booked</p> <p>23 as a stop receipt into our SAP system against</p> <p>24 the existing purchase order.</p> <p>25 Q. If, for example, there was a</p>	<p style="text-align: right;">Page 73</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 there was a dispute here in this respect.</p> <p>3 Q. Now turning to Exhibit 15 which is</p> <p>4 Bates labeled HPL-USOT 172 to 173. It appears</p> <p>5 there are seven separate fuel transactions with</p> <p>6 different vessels, is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. One of those vessels is the SANTA</p> <p>9 ROBERTA?</p> <p>10 A. Yes.</p> <p>11 Q. This document reflects payment made</p> <p>12 to O.W. Germany on the SANTA ROBERTA and other</p> <p>13 transactions?</p> <p>14 A. Yes.</p> <p>15 Q. Would you mind translating for the</p> <p>16 record what the German text reads after "ladies</p> <p>17 and gentlemen"?</p> <p>18 A. This is separate -- there is a</p> <p>19 separate payment of the below mentioned items.</p> <p>20 We did --</p> <p>21 THE INTERPRETER: On advisement of</p> <p>22 the correctness.</p> <p>23 A. Of the supplies.</p> <p>24 THE INTERPRETER: Of the supplies</p> <p>25 or.</p>

19 (Pages 70 to 73)

Page 78	Page 80
<p>1 Norbert Kock (1-19-16)</p> <p>2 department.</p> <p>3 Q. Does RQMT stand for requirement?</p> <p>4 A. Yes.</p> <p>5 Q. What is TIW in the subject line?</p> <p>6 A. This is the abbreviation of the</p> <p>7 port.</p> <p>8 Q. Tacoma Washington?</p> <p>9 A. This is a -- I think this is a</p> <p>10 code. This is a UN code -- no, this is not a UN</p> <p>11 code. For me this is a self-created</p> <p>12 abbreviation from the vessel.</p> <p>13 Q. Is there any physical supplier</p> <p>14 specified in this email or its attachment?</p> <p>15 A. No.</p> <p>16 (Kock Exhibit 19, Document Bates</p> <p>17 stamped HPL-USOT 92 through HPL-USOT 94, marked</p> <p>18 for identification.)</p> <p>19 Q. We've marked as Exhibit 192 emails</p> <p>20 and attachments that have been Bates labeled</p> <p>21 HPL-USOT 92, 93 and 94, and it appears that</p> <p>22 there are two emails and then a document behind</p> <p>23 that; is that fair to say?</p> <p>24 A. There's also some hiccup here I</p> <p>25 see, because the covering page is referring to</p>	<p>1 Norbert Kock (1-19-16)</p> <p>2 A. Yes.</p> <p>3 Q. Page 94 is a separate document?</p> <p>4 A. Yes.</p> <p>5 Q. What does the heading mean on page</p> <p>6 94?</p> <p>7 A. This is a price comparence (sic)</p> <p>8 showing --</p> <p>9 Q. Is it a price comparison?</p> <p>10 A. The meaning here is</p> <p>11 Preisvereinbarungen.</p> <p>12 THE INTERPRETER: Agreement.</p> <p>13 A. Which means agreement.</p> <p>14 Q. It says for HFO and MDO?</p> <p>15 A. Yes.</p> <p>16 Q. What is HFO and MDO?</p> <p>17 A. HFO is heavy fuel, a heavy fuel</p> <p>18 oil, and MDO means marine distillate oil.</p> <p>19 Q. This chart refers to the vessel,</p> <p>20 the SEASPAN HAMBURG?</p> <p>21 A. Yes.</p> <p>22 Q. Who fills out a chart like this?</p> <p>23 A. The responsible purchaser.</p> <p>24 Q. This appears to be a document</p> <p>25 filled out by Karl Heinz Selmer, is that</p>
Page 79	Page 81
<p>1 Norbert Kock (1-19-16)</p> <p>2 an inquiry Mr. Lukas Gaus placed into the market</p> <p>3 for this vessel calling for Tacoma, Oakland and</p> <p>4 Los Angeles in a row, and behind there is</p> <p>5 communication between Karl Heinz Selmer and O.W.</p> <p>6 Bunker and Lukas Gaus about the typical</p> <p>7 specifications of the ordered product, and</p> <p>8 another attachment referring to our price</p> <p>9 comparison we are doing.</p> <p>10 So the first page here has nothing</p> <p>11 to do with the attachments and behind. I would</p> <p>12 have expected here a copy of the inquiry from</p> <p>13 Mr. Lukas Gaus, like we had it for the previous</p> <p>14 vessel.</p> <p>15 Q. Noted.</p> <p>16 MR. FERNANDEZ: The top page, is</p> <p>17 that what you're referring to?</p> <p>18 A. This is the top page for our</p> <p>19 inquiry.</p> <p>20 Q. Page 92 refers to the inquiry that</p> <p>21 was sent into the marketplace by Hapag-Lloyd,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Then page 93, is that a response</p> <p>25 from O.W. Bunker Germany?</p>	<p>1 Norbert Kock (1-19-16)</p> <p>2 correct?</p> <p>3 MR. KEOUGH: Objection.</p> <p>4 A. This document has been filled out</p> <p>5 by the responsible purchaser.</p> <p>6 Q. Who is the responsible purchaser?</p> <p>7 A. At that time it looks like Lukas</p> <p>8 Gaus was working on this vessel here, and he's</p> <p>9 using this piece of paper here to compare all</p> <p>10 the incoming orders to evaluate which offer is</p> <p>11 best, most favorable for Hapag-Lloyd.</p> <p>12 So I call it price comparence sheet</p> <p>13 because it's not an agreement. After we find an</p> <p>14 agreement here and it states with whom Mr. Gaus</p> <p>15 was making this agreement here, with O.W. Bunker</p> <p>16 Germany and Karl Heinz Selmer.</p> <p>17 Q. In the lower right, does that refer</p> <p>18 to the price that was agreed with O.W. Germany?</p> <p>19 A. In the lower right, the</p> <p>20 1.5 million?</p> <p>21 Q. Yes.</p> <p>22 A. This is the total, the total U.S.</p> <p>23 dollar order amount based on the order quantity</p> <p>24 multiplied with the price O.W. Bunker Germany</p> <p>25 gave us.</p>

21 (Pages 78 to 81)

<p style="text-align: right;">Page 82</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Q. Do you know why O.W. Bunker is</p> <p>3 listed twice over there on the left, in the</p> <p>4 first column entitled "Anbieter"?</p> <p>5 MR. KEOUGH: Objection.</p> <p>6 A. Because they offered twice. They</p> <p>7 offered us \$520 in Oakland and they offered us</p> <p>8 \$523 in Tacoma. Although it looks like the \$523</p> <p>9 is more expensive than the other ones, we picked</p> <p>10 it because it was representing the highest</p> <p>11 energy contents.</p> <p>12 So for us it lowers energy costs,</p> <p>13 and also a very good ignition product, the CCAI</p> <p>14 value gives you some kind of knowledge about the</p> <p>15 ignition quality of the offered fuel oil, and</p> <p>16 825 is very good.</p> <p>17 Q. So because the fuel had a higher</p> <p>18 quality at a lower price O.W. Bunker got the</p> <p>19 nomination?</p> <p>20 A. Yes. You can see there's a column</p> <p>21 here under "Bestellkombination," there is the</p> <p>22 first column here.</p> <p>23 MR. KEOUGH: You can say it in</p> <p>24 English please.</p> <p>25 A. This is the total cost weighted on</p>	<p style="text-align: right;">Page 84</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 offer. You can see it on the weighted U.S.</p> <p>3 dollar amount.</p> <p>4 Q. Do you know what is GEFO in the</p> <p>5 first column of the persons who offered?</p> <p>6 A. GEFO is a Hamburg-based trader, who</p> <p>7 is also working based on our terms and</p> <p>8 conditions. As any other parties here mentioned</p> <p>9 as well.</p> <p>10 Q. And Peninsula refers to Peninsula</p> <p>11 Petroleum?</p> <p>12 A. Yes.</p> <p>13 Q. This document is dated October 10,</p> <p>14 2014, is that correct?</p> <p>15 A. This was the date of the fixing</p> <p>16 here, right, October 10th.</p> <p>17 (Kock Exhibit 20, Document Bates</p> <p>18 stamped HPL-USOT 95 through HPL-USOT 98, marked</p> <p>19 for identification.)</p> <p>20 MR. FERNANDEZ: Off the record.</p> <p>21 (Off-the-record discussion held.)</p> <p>22 Q. We've marked as Exhibit 20 a</p> <p>23 document Bates labeled HPL-USOT 95 through 98.</p> <p>24 Have you seen this document before, sir?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 83</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 energy contents.</p> <p>3 MR. KEOUGH: Which column are you</p> <p>4 referring to, sir?</p> <p>5 THE INTERPRETER: The one before</p> <p>6 last.</p> <p>7 MR. KEOUGH: Mr. Interpreter, since</p> <p>8 we haven't sworn you in yet --</p> <p>9 MR. MALONEY: He has been sworn.</p> <p>10 MR. KEOUGH: Okay. Please go</p> <p>11 ahead, sir.</p> <p>12 THE INTERPRETER: The one before</p> <p>13 last, it says IFO/MFO.</p> <p>14 THE INTERPRETER: The total cost by</p> <p>15 weight/energy.</p> <p>16 A. Sorry to correct you. It's not by</p> <p>17 weight, the energy is weighted in this cost</p> <p>18 here.</p> <p>19 THE INTERPRETER: Considered,</p> <p>20 listed weighted.</p> <p>21 A. No, weighted, because we do an</p> <p>22 energy calculation here. We have an Energiewert</p> <p>23 here also. This Energiewert will be weighted in</p> <p>24 the total cost. So this offer here, the second</p> <p>25 offer by O.W. was for us the most economic</p>	<p style="text-align: right;">Page 85</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Q. What is this document?</p> <p>3 A. This is an order confirmation</p> <p>4 coming from O.W. Bunker Germany to Hapag-Lloyd</p> <p>5 confirming the bunker deal for the SEASPAN</p> <p>6 HAMBURG at Tacoma.</p> <p>7 Q. Just like with the SANTA ROBERTA,</p> <p>8 O.W. Bunker Germany is the seller?</p> <p>9 A. Yes.</p> <p>10 Q. And Hapag-Lloyd AG is the buyer?</p> <p>11 A. Yes.</p> <p>12 Q. The same remarks "HALO GCT2007</p> <p>13 shall apply" are listed on page 96?</p> <p>14 A. Yes.</p> <p>15 Q. Norton Lilly is being used as a</p> <p>16 port agent?</p> <p>17 A. Right.</p> <p>18 Q. On page 95 Mr. Selmer writes to</p> <p>19 Mr. Gaus "Dear Lukas, thank you for your</p> <p>20 support."</p> <p>21 Do you have an understanding of</p> <p>22 what he means by that?</p> <p>23 A. To receive the offer. Sorry, to</p> <p>24 receive the order.</p> <p>25 (Kock Exhibit 21, Document Bates</p>

22 (Pages 82 to 85)

<p style="text-align: right;">Page 138</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 parties which could be an in between.</p> <p>3 Q. Is it fair so say then that Hapag</p> <p>4 did not care what happened downstream of O.W.</p> <p>5 Germany in terms of dealing with subcontractors,</p> <p>6 physical suppliers?</p> <p>7 MR. KEOUGH: Objection.</p> <p>8 A. That's not our business.</p> <p>9 Q. If I understand correctly from what</p> <p>10 you said a few minutes ago, O.W. Germany's</p> <p>11 solicitation of business, as having the ability</p> <p>12 to serve as a one-stop shop, satisfied Hapag's</p> <p>13 upper management that they could begin doing</p> <p>14 business with O.W. Germany in 2007, is that</p> <p>15 correct?</p> <p>16 MR. FERNANDEZ: Objection to the</p> <p>17 form. You can answer the question.</p> <p>18 A. Yes, it seems so.</p> <p>19 Q. So if I understand sort of as a</p> <p>20 synthesis of what you said already, Hapag-Lloyd</p> <p>21 never authorized or pointed O.W. Germany as an</p> <p>22 agent to order fuel on Hapag's behalf, is that</p> <p>23 correct?</p> <p>24 MR. KEOUGH: Objection.</p> <p>25 A. Never.</p>	<p style="text-align: right;">Page 140</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 A. Yes.</p> <p>3 Q. The 2006 version?</p> <p>4 A. Yes.</p> <p>5 Q. And the version attached to</p> <p>6 Exhibit 3?</p> <p>7 A. This is the version which has been</p> <p>8 negotiated with O.W. Bunker during the process</p> <p>9 of negotiating the contract in Rotterdam and</p> <p>10 Antwerp.</p> <p>11 Q. The ARA contract?</p> <p>12 A. The ARA contract.</p> <p>13 Q. Which has no relevance to the</p> <p>14 transactions at issue here in these actions?</p> <p>15 MR. KEOUGH: Objection to the form.</p> <p>16 A. Right.</p> <p>17 Q. So really the version attached to</p> <p>18 Exhibit H 1 are the terms that apply to the</p> <p>19 contracts between Hapag-Lloyd and O.W. Germany</p> <p>20 for these transactions?</p> <p>21 A. Yeah.</p> <p>22 MR. KEOUGH: Objection.</p> <p>23 A. This has been also confirmed by</p> <p>24 O.W..</p> <p>25 Q. It's signed and stamped by O.W.</p>
<p style="text-align: right;">Page 139</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Q. Did Hapag-Lloyd ever advise U.S.</p> <p>3 Oil or O'Rourke Marine that O.W. Germany was</p> <p>4 acting as an agent of Hapag-Lloyd?</p> <p>5 A. No.</p> <p>6 Q. Let's take a look at Exhibit H 1</p> <p>7 which is attached to your declaration toward the</p> <p>8 back. I would also like you to take a look at</p> <p>9 Exhibit 3, the third page of Exhibit 3 which is</p> <p>10 Bates stamped USOT 000103 through 107. I want</p> <p>11 you to compare these two.</p> <p>12 It seems like we have two sets of</p> <p>13 terms and conditions used by Hapag-Lloyd. The</p> <p>14 version attached to Exhibit 3 appears to be</p> <p>15 3 pages long, and the version appearing at</p> <p>16 Exhibit H 1 of your declaration is 5 pages long.</p> <p>17 Do you understand what the</p> <p>18 difference is between these two versions?</p> <p>19 A. The first version here which was</p> <p>20 dated 2006, this is the version we were</p> <p>21 discussing earlier today, which has been always</p> <p>22 mentioned by O.W. as the terms and conditions of</p> <p>23 2007.</p> <p>24 Q. And that's the version attached as</p> <p>25 Exhibit H 1 to your declaration?</p>	<p style="text-align: right;">Page 141</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Germany?</p> <p>3 A. Yeah, but it has been also</p> <p>4 confirmed by O.W. in their order.</p> <p>5 Q. In their sales order confirmations.</p> <p>6 Even though Hapag's purchase order confirmations</p> <p>7 refer to the latest edition, it's the sales</p> <p>8 order confirmation and O.W. Germany's</p> <p>9 identification of the 2006 version that apply?</p> <p>10 A. Yes.</p> <p>11 MR. KEOUGH: Objection.</p> <p>12 Q. Correct me if I'm wrong, but I</p> <p>13 believe you testified earlier that Hapag did not</p> <p>14 control O.W. Germany's selection of a physical</p> <p>15 supplier or a subcontractor for the purchase of</p> <p>16 a bunker fuel that had been supplied to Hapag?</p> <p>17 MR. KEOUGH: Objection.</p> <p>18 A. This is not our business.</p> <p>19 Q. So Hapag did not instruct O.W.</p> <p>20 Germany to use certain physical suppliers at</p> <p>21 various ports?</p> <p>22 A. No.</p> <p>23 MR. KEOUGH: Objection.</p> <p>24 MR. HEILIG: Let's take a 3-minute</p> <p>25 break and mark some exhibits.</p>

36 (Pages 138 to 141)

<p style="text-align: right;">Page 158</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 claim was valid, there would be an adjustment in</p> <p>3 price to O.W. Germany's invoice to Hapag-Lloyd?</p> <p>4 A. That's right.</p> <p>5 Q. Irrespective of whether or not</p> <p>6 there would be a corresponding reduction or</p> <p>7 adjustment in price of the physical supplier's</p> <p>8 invoice to O.W.?</p> <p>9 A. We have no relation to the physical</p> <p>10 supplier. We are just dealing with O.W.</p> <p>11 Germany.</p> <p>12 Q. This all stems from that issue in</p> <p>13 the '90s where you dealt with the broker who</p> <p>14 simply washed his hands with the situation, and</p> <p>15 left Hapag with the recourse?</p> <p>16 A. Yes.</p> <p>17 Q. Let's take a look at Exhibit 14. I</p> <p>18 believe this was an email from the vessel</p> <p>19 attaching the bunker delivery note that was sent</p> <p>20 directly to Hapag?</p> <p>21 A. Yes.</p> <p>22 Q. Would Hapag have also received a</p> <p>23 copy of the bunker delivery note from O.W.</p> <p>24 Germany at some point?</p> <p>25 A. It could have been done at some</p>	<p style="text-align: right;">Page 160</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Germany's invoice to Hapag-Lloyd for the SANTA</p> <p>3 ROBERTA transaction, correct?</p> <p>4 A. That's right.</p> <p>5 Q. This one is not stamped because it</p> <p>6 has not yet been entered into Hapag's accounting</p> <p>7 system?</p> <p>8 A. That's right.</p> <p>9 Q. Looking earlier we looked at the</p> <p>10 stamped version of the invoice?</p> <p>11 A. Yes.</p> <p>12 Q. And it would have been entered in</p> <p>13 the system?</p> <p>14 A. This is depending on where the</p> <p>15 copies are coming from. If the copies are</p> <p>16 coming out of our system and they had been</p> <p>17 booked into the system there is a stamp. In</p> <p>18 this case here, this is communication from O.W.</p> <p>19 Bunker to our bookkeeping department, and at</p> <p>20 that time the invoice has not been booked.</p> <p>21 Q. The stamp is Hapag's stamp?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know whether Hapag would</p> <p>24 have stamped the copy received by email or would</p> <p>25 Hapag have waited for the original to arrive by</p>
<p style="text-align: right;">Page 159</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 point together with the invoice.</p> <p>3 Q. Okay. Let's take a look at a</p> <p>4 document that has been marked as Exhibit 51,</p> <p>5 Bates number OWG-9949-230 through 233.</p> <p>6 The email on page 230 is in German</p> <p>7 so I will have to rely on you to translate, or</p> <p>8 our trusted translator. Can you describe this</p> <p>9 email for me?</p> <p>10 A. Yeah. This is a message from</p> <p>11 Victoria Bohn who's an administrative worker at</p> <p>12 O.W. at that time addressing this email to</p> <p>13 Marion Sakowski, who is a manager in our</p> <p>14 accounting department saying hello Frau Sakowski</p> <p>15 or hello Mrs. Sakowski, attached you receive</p> <p>16 invoice and bunker delivery note for the</p> <p>17 bunkering of M/V, Motor Vessel SANTA ROBERTA in</p> <p>18 Tacoma on October 9, 2014. The original will</p> <p>19 follow per courier.</p> <p>20 Q. So Hapag would receive copies of</p> <p>21 the bunker delivery note and the invoice and the</p> <p>22 original by mail?</p> <p>23 A. Yes.</p> <p>24 Q. If we look at the third page,</p> <p>25 document number 232, we have a copy of O.W.</p>	<p style="text-align: right;">Page 161</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 courier?</p> <p>3 A. At that time the accounting</p> <p>4 department was not allowed to process invoices</p> <p>5 coming by email. The local taxing authorities</p> <p>6 in German were demanding us just to process</p> <p>7 original invoices received and not copies.</p> <p>8 Q. So it's fair to assume the stamped</p> <p>9 version we looked at earlier was the hard copy</p> <p>10 received by Hapag-Lloyd?</p> <p>11 A. Yes.</p> <p>12 Q. Let's take a look at Exhibit 15.</p> <p>13 Just remind me again what the German word</p> <p>14 translates to?</p> <p>15 A. This is the payment notice that</p> <p>16 there is money in the pipeline.</p> <p>17 Q. We looked earlier and saw that the</p> <p>18 SANTA ROBERTA is identified on this document?</p> <p>19 A. Yes.</p> <p>20 Q. How would Hapag-Lloyd make payment</p> <p>21 to O.W. Germany, physical payment; was it by</p> <p>22 check or wire payment?</p> <p>23 A. Wire payment.</p> <p>24 Q. Would this document be issued</p> <p>25 before or after the actual wire payment was</p>

41 (Pages 158 to 161)

<p style="text-align: right;">Page 162</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 made?</p> <p>3 A. Before.</p> <p>4 Q. So this is simply advising that</p> <p>5 payment is on its way?</p> <p>6 A. Yeah, something is coming.</p> <p>7 Q. At the time this document was</p> <p>8 generated had payment already been approved by</p> <p>9 Hapag's accounting department, or could payment</p> <p>10 have been stopped for any number of reasons?</p> <p>11 A. If this document is going out the</p> <p>12 payment is in the pipeline.</p> <p>13 Q. Are there any other records, any</p> <p>14 other accounting records of the actual wire</p> <p>15 transfer that Hapag maintains?</p> <p>16 A. There could be. I'm not</p> <p>17 responsible for the accounting, but there should</p> <p>18 be records available.</p> <p>19 Q. Are you satisfied that based on the</p> <p>20 issuance of this document, Hapag-Lloyd paid O.W.</p> <p>21 Germany for the SANTA ROBERTA transaction?</p> <p>22 A. Yeah, but take care, this is not</p> <p>23 our business here, this is done by the</p> <p>24 accounting department and we are not in copy of</p> <p>25 this document here, so we have no idea or no</p>	<p style="text-align: right;">Page 164</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Hapag evaluating the requisition from the</p> <p>3 vessel, we have Hapag soliciting bids from</p> <p>4 traders, physical suppliers, we have Hapag</p> <p>5 evaluating those bids and accepting one of them</p> <p>6 and awarding the nomination to a physical</p> <p>7 supplier or a trader.</p> <p>8 We have the exchange of</p> <p>9 confirmations, we have the physical delivery of</p> <p>10 fuel to the vessel, we have the issuance of a</p> <p>11 bunker delivery note and a survey report for</p> <p>12 quality and specifications, we have invoicing by</p> <p>13 Hapag, excuse me, from the seller to Hapag, and</p> <p>14 payment from Hapag to the seller.</p> <p>15 Is that generally accurate in all</p> <p>16 respects for each of these transactions?</p> <p>17 MR. KEOUGH: Objection to the form.</p> <p>18 MR. FERNANDEZ: Objection to the</p> <p>19 form.</p> <p>20 A. Not necessarily. The pre-invoice</p> <p>21 of the vessel to the stowage center is normally</p> <p>22 not copied to us; but all other documents I</p> <p>23 agree, this is the process.</p> <p>24 MR. HEILIG: With that I will pass</p> <p>25 the witness, reserving any further questions for</p>
<p style="text-align: right;">Page 163</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 information. This is just an email which was</p> <p>3 sent by our accounting department direct to O.W.</p> <p>4 at that time, without copy to our department.</p> <p>5 Q. I understand it's not your</p> <p>6 department, but you've been designated as</p> <p>7 Hapag's representative. My question is, does</p> <p>8 this document satisfy you that Hapag-Lloyd has</p> <p>9 made payment to O.W. Germany for the SANTA</p> <p>10 ROBERTA transaction, notwithstanding the filing</p> <p>11 of insolvency proceedings?</p> <p>12 A. Yeah.</p> <p>13 Q. Do you know how this document would</p> <p>14 have been transmitted to O.W. Germany?</p> <p>15 A. As I see the posted address here I</p> <p>16 would say in an envelope by post, by mail.</p> <p>17 Q. So you don't know whether or not</p> <p>18 this document would have also been emailed?</p> <p>19 A. No, I don't know.</p> <p>20 Q. That seems to be a general rundown</p> <p>21 of the bunkering process. Let me just recap and</p> <p>22 see if you agree.</p> <p>23 We have the advance notice of a</p> <p>24 bunker requisition form from the vessel, we have</p> <p>25 the actual requisition from the vessel, we have</p>	<p style="text-align: right;">Page 165</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 the follow-up.</p> <p>3 MR. KEOUGH: Let's take 10 minutes</p> <p>4 or so.</p> <p>5 (Short recess taken.)</p> <p>6 (Kock Exhibit 52, Notice of</p> <p>7 Deposition, marked for identification.)</p> <p>8 EXAMINATION BY MR. KEOUGH:</p> <p>9 Q. Good afternoon, Mr. Kock. My name</p> <p>10 is John Keough, I'm an attorney with Clyde &</p> <p>11 Co.. With me is Casey Burlage of my office, and</p> <p>12 we represent U.S. Oil Trading in these actions.</p> <p>13 I'm going to ask you a few questions following</p> <p>14 on questions that were asked of you earlier. If</p> <p>15 you don't understand my question please say so.</p> <p>16 A. Um-hum.</p> <p>17 Q. And you need to speak your answer</p> <p>18 yes or no, okay?</p> <p>19 A. Yes.</p> <p>20 Q. If you need a break at any time</p> <p>21 please let us know, we'll do our best to</p> <p>22 accommodate you. If you don't understand any</p> <p>23 question please speak up and we'll try to make</p> <p>24 it clear and understandable, otherwise anyone</p> <p>25 reading the record may believe that you</p>

42 (Pages 162 to 165)

<p style="text-align: right;">Page 170</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 it says "First Amended Complaint." Do you see</p> <p>3 that in this caption on the side in bold print?</p> <p>4 A. Yes.</p> <p>5 Q. Directing your attention to page 5</p> <p>6 and paragraph 17. You answered counsel's</p> <p>7 questions about that paragraph 17. Do you</p> <p>8 recall that testimony?</p> <p>9 A. Yes.</p> <p>10 Q. A copy of the exhibit before you</p> <p>11 does not have a copy of the Exhibit 1 to that</p> <p>12 document, does it?</p> <p>13 Is there a copy of Exhibit 1</p> <p>14 attached to that document?</p> <p>15 A. No.</p> <p>16 Q. I'm going to show you a copy of</p> <p>17 Exhibit 1. That is attached to the actual</p> <p>18 document on file, and I will represent as I show</p> <p>19 you that this appears to be a true and accurate</p> <p>20 copy of Exhibit 1 to this First Amended</p> <p>21 Complaint. I ask you to take a look at that.</p> <p>22 Do you see that the first page</p> <p>23 refers to that ARA contract that you testified</p> <p>24 about before?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 172</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 2013." Do you see that?</p> <p>3 A. Um-hum, yes.</p> <p>4 Q. Is it your testimony that those</p> <p>5 terms and conditions formed any part of your</p> <p>6 contract with O.W. Germany?</p> <p>7 A. No.</p> <p>8 Q. It is your testimony that those</p> <p>9 terms and conditions did not apply to your sale</p> <p>10 to O.W. Germany for any of these vessels, is</p> <p>11 that right?</p> <p>12 A. That's correct.</p> <p>13 Q. It's your understanding as you sit</p> <p>14 here today that O.W. Germany agrees with you in</p> <p>15 that respect?</p> <p>16 A. Yes.</p> <p>17 Q. I'm showing you what's been marked</p> <p>18 as Exhibit 7 sir, or would you get Exhibit 7,</p> <p>19 you have the originals there in front of you.</p> <p>20 Would you please turn to Exhibit 7.</p> <p>21 Do you have that in front of you?</p> <p>22 A. Yes.</p> <p>23 Q. That's an email dated</p> <p>24 September 30th, correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 171</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Q. It's your testimony that this page,</p> <p>3 this document, this two-page document has</p> <p>4 nothing to do with the shipments that are the</p> <p>5 subject of this case to the vessels that we're</p> <p>6 talking about here today, is that right?</p> <p>7 A. This is just on Rotterdam and</p> <p>8 Antwerp here.</p> <p>9 Q. So it has nothing to do with the</p> <p>10 case here?</p> <p>11 A. Nothing.</p> <p>12 Q. The same thing is true as I turn to</p> <p>13 the third page which are the marine fuel oil</p> <p>14 terms and conditions, pages 1 of 5 through 5 of</p> <p>15 5.</p> <p>16 Those terms and conditions, the</p> <p>17 July 2014 terms and conditions in your view did</p> <p>18 not apply here, is that right?</p> <p>19 A. That's right.</p> <p>20 Q. To any of these ships that we've</p> <p>21 been talking about?</p> <p>22 A. That's right.</p> <p>23 Q. Thank you. The next page is a</p> <p>24 document labeled "O.W. Bunker Group Terms and</p> <p>25 Conditions of Sale for Marine Bunkers, Edition</p>	<p style="text-align: right;">Page 173</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Q. Lukas Gaus reports to you in your</p> <p>3 department?</p> <p>4 A. That's right, yes.</p> <p>5 Q. Now, turning to the second page,</p> <p>6 the reverse side of that document which is page</p> <p>7 140. This is the bunker fuel's inquiry?</p> <p>8 A. Yes.</p> <p>9 Q. This is for the SANTA ROBERTA,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. You do not identify the recipients</p> <p>13 of these inquiries and you explain why, correct?</p> <p>14 A. That's right, yes.</p> <p>15 Q. Approximately how many persons</p> <p>16 received a copy of this request to bid from</p> <p>17 outside of Hapag-Lloyd?</p> <p>18 A. I think we have the bunker</p> <p>19 comparison sheet here in our records as well,</p> <p>20 the names are listed on this sheet.</p> <p>21 Q. Would you turn to the bunker</p> <p>22 comparison for the SANTA ROBERTA, which is --</p> <p>23 A. I think it was Chemoil, G4.</p> <p>24 Q. Hold on one second, let's get that</p> <p>25 in front of you. Look at Exhibit 8 please, the</p>

44 (Pages 170 to 173)

<p style="text-align: right;">Page 174</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 second page of that exhibit?</p> <p>3 A. Yes.</p> <p>4 Q. The companies that are listed in</p> <p>5 the left-hand column, those are companies</p> <p>6 that --</p> <p>7 A. Have been contacted.</p> <p>8 Q. Have been contacted. Is that your</p> <p>9 testimony?</p> <p>10 A. Yes.</p> <p>11 Q. Chemoil did not submit a bid?</p> <p>12 A. Right. They did not offer.</p> <p>13 Q. What does the term KA mean?</p> <p>14 A. No quote, no offer.</p> <p>15 Q. At the top of that page it says</p> <p>16 4140, do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Then a word in German that begins</p> <p>19 with sounding like mineral, do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. What does that number mean?</p> <p>22 A. 4140 is the organizational number</p> <p>23 of our department. Mineralol</p> <p>24 Preisvereinbarungen is a German word for bunker</p> <p>25 procurement department or bunker purchasing.</p>	<p style="text-align: right;">Page 176</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 A. That means just notes.</p> <p>3 THE INTERPRETER: Notes, comments.</p> <p>4 Q. In the bottom of the page on the</p> <p>5 right side there is a column that says "Best</p> <p>6 Nr," do you see that?</p> <p>7 A. Yeah.</p> <p>8 Q. And then there's a number, 0208?</p> <p>9 A. This is the application for</p> <p>10 Bestellnummer, which means order number. The</p> <p>11 028 is the code of the responsible purchaser in</p> <p>12 our department.</p> <p>13 Q. What is the number to the right of</p> <p>14 that?</p> <p>15 A. Starting with the 45?</p> <p>16 Q. Yes.</p> <p>17 A. This is the purchase order number</p> <p>18 which has been produced by our internal SAP</p> <p>19 system where the order is going into.</p> <p>20 Q. Is this one of the first, if not</p> <p>21 the first page where you or Hapag-Lloyd</p> <p>22 indicates its purchase order number for this</p> <p>23 transaction?</p> <p>24 A. Yes.</p> <p>25 Q. You see in the right-hand column</p>
<p style="text-align: right;">Page 175</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Q. In the left-hand column the word</p> <p>3 Wahl means choice?</p> <p>4 A. Yes.</p> <p>5 Q. The next column over, excuse my</p> <p>6 pronunciation, Anbieter?</p> <p>7 A. Seller.</p> <p>8 Q. That means seller, okay. The word</p> <p>9 Verkäufer at the bottom, what does that mean?</p> <p>10 A. Seller.</p> <p>11 Q. So are you saying Anbieter and</p> <p>12 Verkäufer both mean seller?</p> <p>13 THE INTERPRETER: Anbieter is</p> <p>14 offerer or seller.</p> <p>15 A. And Verkäufer means seller.</p> <p>16 Q. That reference on this form means</p> <p>17 the seller that you decided would be the seller,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. Below that, the next box in German</p> <p>21 states "Physical Supplier"?</p> <p>22 A. Yes.</p> <p>23 Q. In the right-hand column, on the</p> <p>24 far right side of the page or the second column</p> <p>25 in, Notizen means notes?</p>	<p style="text-align: right;">Page 177</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 where it says notes there is the word U.S. Oil,</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. What does that mean to you?</p> <p>6 A. This is stating the physical</p> <p>7 supplier of the offering seller.</p> <p>8 Q. And Hapag-Lloyd decided that they</p> <p>9 would choose O.W. Bunker as the seller based</p> <p>10 both on the price and on the, what you've</p> <p>11 described as the energy factors; is that fair to</p> <p>12 say?</p> <p>13 A. Yes.</p> <p>14 Q. And the energy factors are</p> <p>15 described in these columns that depict the</p> <p>16 specifications of the fuel oil, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Those specifications were provided</p> <p>19 originally by U.S. Oil, the physical supplier,</p> <p>20 as far as you know, to O.W. Germany, right?</p> <p>21 MR. FERNANDEZ: Objection to the</p> <p>22 form.</p> <p>23 MR. MALONEY: Objection to the</p> <p>24 form.</p> <p>25 A. I have no idea.</p>

45 (Pages 174 to 177)

<p style="text-align: right;">Page 178</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Q. How would any of these offerers</p> <p>3 obtain the typical specs for the physical</p> <p>4 suppliers where they are not the physical</p> <p>5 supplier, do you have any idea?</p> <p>6 A. Maybe they have an analysis report</p> <p>7 available or past business done, knowing the</p> <p>8 product.</p> <p>9 Q. And that's what you rely on in</p> <p>10 placing your order?</p> <p>11 A. Yes.</p> <p>12 MR. FERNANDEZ: Objection.</p> <p>13 MR. HEILIG: Objection.</p> <p>14 A. Yes.</p> <p>15 Q. Is it fair to say you're relying on</p> <p>16 the quality that the physical supplier is going</p> <p>17 to provide, correct?</p> <p>18 MR. MALONEY: Objection to the</p> <p>19 form.</p> <p>20 MR. FERNANDEZ: Objection to the</p> <p>21 form.</p> <p>22 A. I'm relying on the quality the</p> <p>23 responsible seller is providing to me.</p> <p>24 Q. He's describing to you in these</p> <p>25 documents, correct?</p>	<p style="text-align: right;">Page 180</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 A. That's correct.</p> <p>3 Q. Would you briefly describe for us</p> <p>4 what your educational background is, sir?</p> <p>5 A. The educational background is I</p> <p>6 don't carry any academic grade. I was visiting</p> <p>7 the --</p> <p>8 THE INTERPRETER: The usual middle</p> <p>9 school.</p> <p>10 A. Followed by a three-year served</p> <p>11 course of commercial school in Hamburg, and then</p> <p>12 followed by a two years apprenticeship in a</p> <p>13 company belonging Philips Electronics at that</p> <p>14 time, having a degree as an industry assistant</p> <p>15 manager, I would translate it like this.</p> <p>16 THE INTERPRETER: I agree with that</p> <p>17 translation, yes.</p> <p>18 Q. Now, in September and October of</p> <p>19 2014, how would you describe your -- excuse me,</p> <p>20 yes, 2014, how would you describe your duties as</p> <p>21 the director of your department, generally?</p> <p>22 A. To lead a team of purchasers, and</p> <p>23 to ensure the availability of fuels and</p> <p>24 lubricants in the most economic way to our fleet</p> <p>25 of vessels and chartered vessels.</p>
<p style="text-align: right;">Page 179</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 MR. FERNANDEZ: Objection to the</p> <p>3 form.</p> <p>4 MR. HEILIG: Objection.</p> <p>5 MR. MALONEY: Objection to the</p> <p>6 form.</p> <p>7 A. Yes.</p> <p>8 Q. Do you consider any facts, other</p> <p>9 than the energy cost and the price, in deciding</p> <p>10 whether to order a delivery from a particular</p> <p>11 offerer?</p> <p>12 A. No.</p> <p>13 Q. Ever?</p> <p>14 MR. FERNANDEZ: Objection to the</p> <p>15 form.</p> <p>16 A. Ever?</p> <p>17 Q. Ever? Do you ever do that?</p> <p>18 MR. FERNANDEZ: Objection.</p> <p>19 A. I can't -- I can't state this</p> <p>20 because I'm just the director, I'm not the</p> <p>21 purchaser.</p> <p>22 Q. But your purpose is to order bunker</p> <p>23 deliveries to your vessels on the basis that the</p> <p>24 price is the lowest and the energy cost is the</p> <p>25 most favorable, correct?</p>	<p style="text-align: right;">Page 181</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Q. For the vessels that you've been</p> <p>3 referring to today, at least the VIENNA EXPRESS,</p> <p>4 the SANTA ROBERTA, the SEASpan HAMBURG and the</p> <p>5 SOFIA EXPRESS, Hapag-Lloyd's agent at the Port</p> <p>6 of Tacoma in October of 2014 was Norton Lilly,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 MR. FERNANDEZ: Just note my</p> <p>10 objection to the form of the last question.</p> <p>11 Q. Did Hapag-Lloyd rely on Norton</p> <p>12 Lilly to help coordinate the delivery of the</p> <p>13 fuel to these vessels?</p> <p>14 A. Yes.</p> <p>15 Q. That's what Norton Lilly does in</p> <p>16 the usual course for Hapag, correct?</p> <p>17 MR. FERNANDEZ: Objection.</p> <p>18 MR. MALONEY: Objection.</p> <p>19 A. Yes.</p> <p>20 Q. Do they do that for both owned and</p> <p>21 chartered vessels of Hapag?</p> <p>22 MR. FERNANDEZ: Objection.</p> <p>23 MR. HEILIG: Objection.</p> <p>24 A. Yes.</p> <p>25 Q. Please look at what's been marked</p>

46 (Pages 178 to 181)

<p style="text-align: right;">Page 198</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 MR. FERNANDEZ: Objection.</p> <p>3 A. It should have been Captain Grundel</p> <p>4 if he was onboard at that time, yes.</p> <p>5 Q. According to the crew list he was</p> <p>6 the captain?</p> <p>7 A. Yes.</p> <p>8 Q. At that time, right?</p> <p>9 A. Yes.</p> <p>10 MR. FERNANDEZ: Objection.</p> <p>11 Q. Is the SOFIA EXPRESS still owned by</p> <p>12 Hapag-Lloyd?</p> <p>13 A. Yes.</p> <p>14 Q. Is the VIENNA EXPRESS still owned</p> <p>15 by Hapag-Lloyd?</p> <p>16 A. Yes.</p> <p>17 Q. I direct your attention to</p> <p>18 Exhibit 32, to the second page which is marked</p> <p>19 HPL-USOT 00198. Would you look at the second</p> <p>20 page please, sir?</p> <p>21 Is that the bunker delivery receipt</p> <p>22 for the VIENNA EXPRESS?</p> <p>23 A. Yes.</p> <p>24 Q. Is it your understanding that the</p> <p>25 chief engineer of the VIENNA EXPRESS signed that</p>	<p style="text-align: right;">Page 200</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 Q. I'm showing you what's been</p> <p>3 produced by your counsel as HPL-USOT page 89,</p> <p>4 which appears to be a crew list for the VIENNA</p> <p>5 EXPRESS, which I'm placing before you.</p> <p>6 Do you recognize that the name of</p> <p>7 the chief engineer depicted on that page -- do</p> <p>8 you recognize whether the name of the chief</p> <p>9 engineer is depicted on that page?</p> <p>10 A. It looks like the chief engineer,</p> <p>11 Marek Sojda, was the responsible chief engineer</p> <p>12 for the vessel at that time, and the signature</p> <p>13 looks like Sojda. I would agree.</p> <p>14 Q. Other than the document that you've</p> <p>15 reviewed in Germany and here, the testimony that</p> <p>16 you described, did you review any diaries or</p> <p>17 calendar that you may have kept in October of</p> <p>18 2014?</p> <p>19 A. No.</p> <p>20 Q. In preparation for your testimony</p> <p>21 today?</p> <p>22 A. No.</p> <p>23 Q. At the time, in October of 2014,</p> <p>24 did you have a practice of maintaining a</p> <p>25 notebook or a diary of the work that was going</p>
<p style="text-align: right;">Page 199</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 bunker delivery receipt?</p> <p>3 MR. FERNANDEZ: Objection.</p> <p>4 A. Yeah, it has been signed by the</p> <p>5 chief engineer.</p> <p>6 Q. And the chief engineer signed that</p> <p>7 on behalf of the vessel?</p> <p>8 MR. FERNANDEZ: Objection.</p> <p>9 Q. Using the stamp marked there?</p> <p>10 MR. FERNANDEZ: Objection.</p> <p>11 MR. MALONEY: Objection.</p> <p>12 MR. HEILIG: Objection.</p> <p>13 A. He signed it on behalf of</p> <p>14 Hapag-Lloyd.</p> <p>15 Q. And it bears the stamp also on the</p> <p>16 right side, Hapag-Lloyd VIENNA EXPRESS, do you</p> <p>17 see that?</p> <p>18 A. Yes.</p> <p>19 Q. In the course of your duties as the</p> <p>20 director of purchasing, you're use to seeing</p> <p>21 stamps of the vessel and Hapag-Lloyd on these</p> <p>22 bunker delivery receipts?</p> <p>23 MR. FERNANDEZ: Objection.</p> <p>24 A. When it was a Hapag-Lloyd vessel,</p> <p>25 yes.</p>	<p style="text-align: right;">Page 201</p> <p>1 Norbert Kock (1-19-16)</p> <p>2 on in your department?</p> <p>3 A. No.</p> <p>4 Q. In the course of your experience as</p> <p>5 the director of purchasing for Hapag-Lloyd, have</p> <p>6 you come to learn that a supplier of fuel to a</p> <p>7 vessel, a Hapag-Lloyd vessel, may have a right</p> <p>8 to assert a lien against the vessel itself?</p> <p>9 MR. FERNANDEZ: Objection.</p> <p>10 MR. HEILIG: Objection.</p> <p>11 MR. MALONEY: Objection.</p> <p>12 A. Maybe a seller, but a supplier, no.</p> <p>13 Q. You've developed some familiarity</p> <p>14 that a seller might have a lien against a</p> <p>15 Hapag-Lloyd vessel in some circumstances, is</p> <p>16 that fair to say?</p> <p>17 MR. FERNANDEZ: Objection.</p> <p>18 A. I think this is part also of our</p> <p>19 terms and conditions.</p> <p>20 Q. Prior to the O.W. bankruptcy, did</p> <p>21 you have any experience with any seller or</p> <p>22 supplier claiming that they had a lien against a</p> <p>23 Hapag-Lloyd vessel for non-payment?</p> <p>24 A. No.</p> <p>25 MR. HEILIG: Objection.</p>

51 (Pages 198 to 201)